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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,547	01/15/2004	Timo Aila	032700-2	3047
22204	7590	10/31/2006	EXAMINER	
NIXON PEABODY, LLP 401 9TH STREET, NW SUITE 900 WASHINGTON, DC 20004-2128			REPKO, JASON MICHAEL	
			ART UNIT	PAPER NUMBER
			2628	

DATE MAILED: 10/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/757,547

Applicant(s)

AILA ET AL.

Examiner

Jason M. Repko

Art Unit

2628

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 10 October 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.


ULKA CHAUHAN
SUPERVISORY PATENT EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because: In the response dated October 10, 2006, Applicant argues the claimed invention is cannot anticipate the claimed subject matter, asserting the order of the operations performed in the Xie et al reference is different from the claimed order. Specifically, Applicant states that Xie et al, on the other hand, "performs the second visibility test right after the first visibility test", without storing to "the occlusion data buffer between tests." Applicant's attention is directed to paragraph 6c on page 3 of the Office Action dated June 7, 2006, where lines 16-19 of column 5 of the Xie et al reference are cited: "If, at box 50, the HZ buffer 100 has not yet been constructed, then the polygon is simply rendered using the Z-buffer (box 54), and the operations performed by boxes 50, 52, and 60, as described above, are skipped." In the Office Action dated June 7, 2006, the early bailout test is cited as the first visibility test (paragraph 6b on page 3), and the operation performed by box 50, HZ test for polygon visibility, is cited as the second visibility test (paragraph 6d on page 3). Following the flow chart in FIG. 3A, the first visibility test occurs in box 108 (lines 61-65 of column 8) then proceeds to operation 112, which determines if the HZ buffer is constructed. The second visibility test, HZ test in box 116, is performed after the HZ buffer is constructed, which does not happen until a predetermined condition is reached (lines 21-24 of column 5: "This continues until a 'coverage' parameter in box 62 reaches a threshold value. Then the HZ buffer 100 is constructed from the Z-buffer. Polygons from subsequent bins undergo the visibility test (box 50) against the HZ buffer before they are rendered."). As stated in paragraph 7 on page 4 of the Office Action dated June 7, 2006, one of ordinary skill in the art would recognize that the polygons are stored in a z-buffer is analogous to an occlusion culling data buffer. Therefore, Xie et al describes a process that performs a first visibility test, stores occlusion data to an occlusion culling data buffer, and performs a second visibility test only after the occlusion data is stored.

Applicant argues the z-buffer is not analogous to the occlusion data buffer as "the occlusion data buffer of the present invention stores the complete polygon description." However, the limitation of storing a complete polygon description is not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

With regard to claim 2, Applicant argues "Xie et al. discard occluded primitives after first storing them into bins and performing the first visibility tests." However, claim 2 recites, "discarding the hidden primitives of the first visibility test," and the primitives cited have been operated on by the first visibility test. Furthermore, the early bailout condition excludes polygons from further processing (lines 61-65 of column 8), which is analogous to discarding.

With regard to claim 3, Applicant argues the HZ buffer and the fusion cache are not analogous citing the present invention "does not describe a hierarchy." However, the language of claim 3 does not exclude a hierarchy. Furthermore, it is noted that the features upon which applicant relies, "storing minimum and maximum depth values," are not recited in the rejected claim.

With regard to claim 5, Applicant argues that a tile and an occlusion data buffer are not analogous and Xie et al does not "disclose that a preferred amount of data would be stored to the tiles." However, the tiles disclosed by Xie et al establish a predefined amount of data to be collected by an occlusion culling data buffer as each tile defines a subset of the entire screen (lines 34-36 of column 5).

Therefore, the claimed invention as set forth in claims 1-5, 7-12 and 14-18 is not in proper condition for allowance.